

RECORDS MANAGEMENT COMMITTEE
Information Technologies Conference Room, 5th Floor, City Hall,
400 Stewart Avenue, Las Vegas, Nevada
CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.ci.las-vegas.nv.us>

April 27, 2001
1:30 p.m.

CALL TO ORDER: City Clerk Ronemus called the meeting to order at 1:38 p.m.

ATTENDANCE: Barbara Jo (Roni) Ronemus, City Clerk
John Redlein, Assistant City Attorney (arrived at 1:40)
Joseph Marcella, Director, Information Technologies
Mary Ann Sosa, for the Director of Public Works
Bryan Smith, for City Auditor
Sharon Kuhns, Records Administrator
David Riggleman, Manager, Communication Services
Gabriela S. Portillo-Brenner, Deputy City Clerk

EXCUSED: Doug Selby, Deputy City Manager
Mark Vincent, Director, Finance and Business Services

ANNOUNCEMENT MADE RE COMPLIANCE WITH THE OPEN MEETING LAW - Meeting noticed and posted at the following locations:

Downtown Transportation Center, City Clerk's Board
Senior Citizens Center, 450 E. Bonanza Road
Clark County Government Center, 500 S. Grand Central Pkwy
Court Clerk's Bulletin Board, City Hall
City Hall Plaza, Posting Board

(1:38)

1-1

BUSINESS:

- A. APPROVAL OF FINAL MINUTES OF THE RECORDS MANAGEMENT COMMITTEE MEETING OF APRIL 6, 2001.

MARCELLA - Motion to APPROVE – SOSA - seconded the motion – UNANIMOUS with Selby and Vincent excused

(1:38 – 1:39)

1-26

- B. DISCUSSION AND POSSIBLE ACTION ON ISSUES RELATED TO COPYRIGHT AND MUNICIPAL COURT CONTAINED IN THE FINAL DRAFT OF THE PUBLIC RECORDS ACCESS PROCEDURE.

Chair Ronemus stated that Ms. Kuhns incorporated additions discussed at the last Records Management Committee Meeting in both the Policy and Procedures. Ms. Kuhns pointed out

that a sentence had been added to the definition of copyright, which reads, "The fact that a record in possession of the City has been copyrighted does not necessarily forbid its reproduction in response to a public request." The added paragraph second from the bottom under Procedure for Release of Public Records was added and read by Ms. Kuhns. The language fits in with past discussion regarding consultation with the City Attorney's office for a balancing test. Chair Ronemus and Assistant City Attorney Redlein stressed that the language clearly addresses concerns raised specifically by Building and Safety staff. The exception language is directly out of the copyright law.

Chair Ronemus and Assistant City Attorney Redlein discussed when it would be appropriate to ask the intent behind a request for a public record. When there is an obvious potential for harm, it might be appropriate to ask.

Ms. Kuhns raised the issue of excluding Municipal Court regarding public records access procedure. She noted that the Municipal Court retention schedule lists exclusions of records available for public release pursuant to Nevada Revised Statutes; however, when she and Assistant City Attorney Redlein reviewed them they found approximately a half a dozen that actually applied to public release. She found an excellent clause in the Local Courts Records Retention Manual that states that, "A court record is the product of some judicial process. The keeping of the record may be specifically required by statute or it may be kept as a natural outgrowth of the clerk's judicial support duties." Both Keith Gronquist and Diane Ortiz of Municipal Court have been made aware of this clause. The Committee can address any exemption subject to appropriate authority. Pending such authority, there will be no exceptions to the scope of the procedure. Mr. Marcella commented that the exception was hearsay. Assistant City Attorney Redlein agreed that research did not reveal any authority for an exception, although there may be confidential documentation included as evidence. Scope sheets are another example of a public record that is not accessible. Ms. Kuhns stressed that a policy and procedure needs to be developed within the Municipal Court for records that fall under that type of situation.

Chair Ronemus advised that she would finalize the document and forward it through the City Manager's office, the Departments, the Public Information office and to all members of the Committee. The process is approximately 30 days off track now with another 30 days pending. She confirmed with Mr. Riggleman that he will also be distributing the document to the media after internal input. The Sun has expressed concern about paying for any documentation. The next Public Information Committee Meeting is scheduled for May 3, 2001, at 9:30 a.m. He encouraged Ms. Kuhns attend and give a short presentation. Ms. Kuhns verified with Chair Ronemus that the City Manager's office will probably handle having the procedure reviewed by the City Employee Association.

There was no further discussion.

RONEMUS - Motion to accept the information concerning copyright and incorporating it into the draft of the Public Records Access Procedure subject to clarification from Keith Gronquist regarding Municipal Court – MARCELLA - seconded the motion - UNANIMOUS with Selby and Vincent excused

(1:39 – 1:51)

1-48

C. DISCUSSION AND POSSIBLE ACTION ON RECORDS RETENTION AND DISPOSITION SCHEDULES FORM AND/OR FORMAT.

Chair Ronemus jointly called Items C and D. There has been discussion that it is time to begin looking at retention schedules. The question is whether the Committee wants to review the format or individual schedules. Ms. Kuhns presented three samples of retention schedules already filed and reviewed the minutes of the meeting a year ago when the Committee addressed the format of the form. Ultimately the Committee needs to identify their role in reviewing these schedules. Either the Committee can do the actual review or they can designate Ms. Kuhns to review the form with the Records Delegate.

Mr. Marcella suggested that the Committee would want to review the exceptions, those not defined by statute, before making an intelligent decision based on the scrutiny of the Delegates. Assistant City Attorney Redlein stressed that he would not have strong opinions for any records not within his own Department. If it satisfies the Department and Ms. Kuhns and it meets the minimum statutory standards, the Committee is unlikely to disagree. Chair Ronemus added that the individual schedules are approved by Council before they are forwarded to the State for their approval as well. There are many existing schedules which have not been updated since 1994, when some of the existing Departments had not yet been created. Her concern is that the form does not provide essential information that the Committee may need to go back and review. The overall umbrella of the manual helps with the overall picture when the schedules are submitted.

Assistant City Attorney Redlein stated that so long as there are not complaints about records not being available, the retention policies in place must be working. It is possible that records may be placed on a schedule which is not convenient for other Departments. Ms. Kuhns responded that having a retention schedule is defensible in a court of law in the event of a record being destroyed. Assistant City Attorney Redlein indicated that it might be a problem with not having information in order to respond to an internal inquiry. Some Departments may want to be warned to consult with other Departments. Chair Ronemus stated that doing so would be possible, especially with Ms. Kuhns acting as coordinator.

Chair Ronemus questioned Mr. Marcella regarding his definition of exceptions. Mr. Marcella clarified that it would be those instances where there is a difference of opinion between the Department and Ms. Kuhns. There could be interpretation issues or outside authority beyond or besides statutory authority. If the option for Committee review is established, especially since they will eventually have to address electronic records, it creates consistency overall with the final decision. Chair Ronemus complimented the excellent recommendation. During the update of her retention schedule, areas of change or question were identified. For example, the

establishment of Office of Primary Responsibility will impact the Clerk's schedule. Mr. Smith confirmed that the updated schedule is reviewed and approved by Council. Ms. Kuhns advised that same changes are required when the State Records Committee makes changes in the law. Departments are informed so they can update their schedules. In addition, there are changes resulting from internal action. For example, the City Manager's office will have to add their new City Manager Information Reports to their schedule.

Chair Ronemus outlined that the Committee will not review individual schedules, will leave review and training in the hands of Ms. Kuhns and provide for periodic updates to the Committee regarding pending Council and State approvals. Mr. Marcella questioned the procedural trigger for getting the schedules to Ms. Kuhns. There should be an annual review, but should changes be made immediately and then approved at the review. Chair Ronemus requested that a plan for that be presented at the next Committee meeting.

Chair Ronemus verified with Ms. Kuhns that the only concern expressed by the Records Delegates regarding the form is a carry problem currently being resolved as to continuing pages to the signature page. Mr. Marcella questioned the records category and suggested a reference where to find the information. Ms. Kuhns replied that the categories will be defined in the lower left hand corner on the signature page. The electronic form only allows three pages before the form kicks into a signature page. Several Departments have in excess of 20 pages and cannot change the headers. Categories are unchanged as they are defined in the State Records Manual.

Chair Ronemus outlined some confusion with documents filmed or put on optical disk before the paper record is destroyed. That makes it appear that it is the electronic form that should be retained for the three-year period. Ms. Kuhns clarified that they are permanent records and the electronic copy would be permanently maintained and the paper maintained for the term of the retention. For example, bond issues are copied and after ten years the paper destroyed. Nothing with a retention period of less than six years should ever be filmed. Transfer for shorter retention is not cost-effective. Optical is not permanent or archival and is destroyed at the same time as the paper. Mr. Marcella pointed out the problem that in ten years the data will not be readable because of the technology. Chair Ronemus commented that electronic documentation would have to be addressed in the future.

There was no further discussion.

(1:51 - 2:13)

1-422

D. DISCUSSION AND POSSIBLE ACTION ON SUBMITTED RETENTION SCHEDULES FOR REVIEW AND APPROVAL FROM THE DEPARTMENTS OF DETENTION AND ENFORCEMENT, FIRE SERVICES, AND THE CITY CLERK'S OFFICE.

All discussion took place jointly with Item C above.

(1:51 - 2:13)

1-422

E. UPDATE, DISCUSSION, AND POSSIBLE ACTION ON REVISION OF MUNICIPAL CODE CHAPTER 2.60 RECORDS MANAGEMENT.

Chair Ronemus indicated that the Committee has addressed the code under which it operates and Department Directors, but not definitions, the Clerk's responsibilities, public records custody and control or disposal of records retention. Ms. Kuhns outlined various modifications regarding gender and proxy within LVMC 2.60. Chair Ronemus suggested that it would be wise for the Committee to carefully review the code, some of which is probably out of date, at the next Committee meeting. Consideration should also be given to including electronic records, without creating a nightmare by being too specific. Assistant City Attorney Redlein offered that the maximum flexibility be provided by being as broad as possible while still giving a sense of direction. It is important that a judge be able to say that the interpretation is reasonable.

Chair Ronemus advised that the definitions are exactly the same since there has been no change since its creation in 1988. Ms. Kuhns introduced the chapter, as it exists today, followed by each revision. There are aspects that have not been discussed by the Committee. Past discussion was that the definitions be added after completing the revisions. Definitions for office of primary responsibility, records series and non-record material all need to be added, utilizing statutory materials.

Chair Ronemus, Mr. Marcella and Ms. Kuhns discussed the status of legislation regarding electronic records, SB48, SB49 and SB50. SB48 pulls the privacy and allows for transmission of records with some sort of signature. It makes very generic provision for electronic records being used as legal documents. It looks like this is trying to facilitate the medical industry where much of their records have always been private and transmitted by courier. The same situation exists with Fire Services transport billing. The City's transmission of the data must be encrypted because of the privacy issues. This pulls the impact and teeth. Chair Ronemus was unable to ascertain with Mr. Marcella the agency responsible for creating the rules and regulations.

Assistant City Attorney Redlein asked whether the City would want to duplicate State law regarding definitions. That would eliminate a section and leave the City in constant compliance regardless of changes to the State law. Chair Ronemus concurred that those types of suggestions are very valuable and the type of thing to be considered for one comprehensive rewrite. There have been a couple of instances where an entire chapter has been replaced in the past. That opportunity is now open. That will be on the agenda for the next meeting.

Assistant City Attorney Redlein suggested that the public records request form (PRF) be reviewed. Chair Ronemus and Ms. Kuhns responded that the form is Attachment A to the Procedure. Assistant City Attorney Redlein opined that that PRF is too long and too detailed. Others may not agree, but he would like the various departments review the form. Ms. Kuhns indicated that she received feedback on the form after Chair Ronemus presented it at the Team Las Vegas meeting for review. All the departments, except Building and Safety, had a minor problem with it until they were informed that the form could be customized to meet the needs of their particular department, as long as the essential information was included.

Assistant City Attorney Redlein questioned whether the concern of the departments was interpreted to mean that the form does not require enough information. Chair Ronemus and

Ms. Kuhns responded in the affirmative. That was especially the case for Neighborhood Services, so they added more information to the form. Building and Safety added a fee schedule for persons collecting information as well as a box to indicate whether information was supplied in answer to a subpoena. Detention and Enforcement also needed to have that type of information. Ms. Kuhns added that the form is maintained within the department and used as a tool to call up how much information is being provided and for what.

Assistant City Attorney Redlein was puzzled about what the subpoenas were for and for whom. Chair Ronemus commented that according to Building and Safety they frequently respond to subpoenas. Ms. Kuhns thought that it might be related to inspections. Assistant City Attorney Redlein indicated that in civil practice if a civil lawyer wants to know about records of the Building and Safety Department, a subpoena can be filed through the County Clerk's office to subpoena the director to provide records. Most certainly the director would want a record of compliance, but the subpoena would be presented before a public records form is filled out. Chair Ronemus noted that although the PRF is a public record, it is for staff's use. Ms. Kuhns suggested supplying training materials to staff so they can realize that fulfilling the requirements of a subpoena are not necessarily the same as fulfilling the requirements of a PRF. Mr. Marcella confirmed with Chair Ronemus that the PRF is used more as an inside tracking mechanism.

Assistant City Attorney Redlein commented that it may be useful to fill out a PRF to ensure that the requestor receives the desired information and to justify the charges, but wondered if a form still has to be filled if a person presents themselves at the counter requesting information and that information can be immediately provided. Chair Ronemus read the draft policy on PRFs and stated that anyone that requests information of the City Clerk's office must fill out a PRF for tracking purposes.

Ms. Kuhns reiterated that the PRF is used as a tracking mechanism to ensure that the proper information is being supplied to the requestor and, in many cases, so that the requestor knows exactly how much that information is going to cost. Chair Ronemus noted that the information requested on a PRF is exactly the same information requested on a receipt – the name, address, and phone number. Assistant City Attorney Redlein could not understand why a name would be needed to obtain a public document, especially since there is no law that requires it. Chair Ronemus indicated that the name and phone number is needed in instances where research is required and the records clerk has to call when the PRF has been completed and the information is ready for pickup. It is also used as a performance measures mechanism. The PRF is very useful to the City Clerk's office because it deals with more public records requests than any other department in the City. Ms. Kuhns noted that a PRF is not filled out if a member of the public just wants to inspect information.

Assistant City Attorney Redlein insisted that the draft procedure strongly implies that a PRF absolutely must be filled out. Chair Ronemus explained that the policy provided in the draft procedures is intended only as a guideline on what the form should look like, but it is not mandatory. Assistant City Attorney Redlein and Chair Ronemus agreed that the departments' input and the committee's review would determine the final procedure before it is distributed to the outside agencies.

There was no further discussion.

(2:13 – 2:45)

1-1171

CITIZENS PARTICIPATION:

None.

ADJOURNMENT:

SOSA - Motion to ADJOURN – SMITH - seconded the motion - UNANIMOUS with Selby and Vincent excused

The meeting adjourned at 2:45 p.m. **(1-2445)**

/gpb